

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

BORDER RESOURCES, LLC

PLAINTIFF

v.

Civil No. 07-2016

THE UNITED STATES ARMY

DEFENDANT

O R D E R

Now on this 20th day of December, 2007, comes on to be considered **Plaintiff's Motion for Summary Judgment (Doc. 9)**. The Court, being well and sufficiently advised, finds and orders as follows with respect thereto:

1. Plaintiff brings this declaratory judgment action against the United States Army, seeking to quiet title to lands which plaintiff alleges it owns because the lands accreted to an island owned by plaintiff located in the Arkansas River. The government contends that the subject property is federal land that is part of the Fort Chaffee Military Reservation.

2. Currently before the Court is the plaintiff's **Motion for Summary Judgment (Doc. 9)**. Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56(c). The Court considers the facts, and the inferences to be drawn from them, in the light most favorable to the nonmoving party. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986).

3. Based on a review of the plaintiff's submissions and the government's submissions in opposition thereto, it appears there are genuine issues of material fact regarding ownership of the subject property.

Accordingly, plaintiff's **Motion for Summary Judgment (Doc. 9)** is hereby **DENIED**.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE